

**CHAPTER NO. 946**

**SENATE BILL NO. 2329**

**By Cooper**

**Substituted for: House Bill No. 3093**

**By Rinks**

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 7, relative to employment security.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 7, Part 1, is amended by adding the following language as a new section:

§ 50-7-107. Notwithstanding any provision of this chapter or any other law to the contrary,

If a person, corporation or business entity maintains an employment registry/referral service exclusively for companion-sitters seeking employment opportunities for providing personal attendant, companionship, household care, ancillary health care or related services to elderly, sick or disabled clients or to children; and

If the companion-sitters do not provide personal attendant, companionship, household care, ancillary health care or related services for hire to non-profit organizations, Indian tribes or state or local governments; and

If, pursuant to the provisions of the federal insurance contributions act, the federal unemployment tax act, or the collection of income tax at source on wages, (Chapters 21, 23 and 24, respectively, Subtitle C, Internal Revenue Code), the Internal Revenue Service issues a determination that a companion-sitter is not an employee of the person, corporation or business entity under the typical registry/referral arrangements of such person, corporation or business entity; then,

Companion-sitters, who receive referrals under registry/referral arrangements substantially similar to those addressed within such IRS determination, shall not be classified as employees of such person, corporation or business entity pursuant to the provisions of the Tennessee employment security law; unless, the person, corporation or business entity and the department mutually agree to the reclassification of the companion-sitters as employees of such person, corporation or business entity in order to absolve such elderly, sick or disabled clients or the parents of such children from liability for payment of any premiums, fees or other costs that may be imposed pursuant to the provisions of the Tennessee employment security law. The provisions of this section shall not be construed to require forgiveness or refund of any premiums, fees or other related costs duly imposed prior to the effective date of this act.

SECTION 2. Tennessee Code Annotated, Section 50-7-403(b)(4), is amended by adding the following sentences to the end of the subdivision:

If the transferring employer or successor employer demonstrates, to the satisfaction of the commissioner, that a failure to timely provide such notification and written consent resulted from excusable mistake or inadvertence, then the commissioner may appropriately extend the period within which such notification and written consent may be provided to the department. Any modification of premium rates resulting from any such extension shall take effect on, and apply prospectively from, the date on which such transfer is accepted by the department; and the provisions of this subdivision shall not be construed to require forgiveness or refund of any premiums, fees or other related costs duly imposed prior to the effective date of this act.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.

PASSED: May 21, 2004

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 15<sup>th</sup> day of June 2004

  
PHIL BREDESEN, GOVERNOR